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10/586,840	07/20/2006	Johann Magg	2004P00164WOUS	2937
46726 7590 10/07/2010 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562				
EXAMINER ALEXANDER, REGINALD				
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/586,840
Filing Date: July 20, 2006
Appellant(s): MAGG ET AL.

Andre Pallapies
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 19 August 2010 appealing from the Office action mailed 27 April 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 8-11, 13, 14 and 24-28

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

3,260,190	LEVINSON	07-1966
6,510,783	BASILE et al	01-2003
6,904,840	PFEIFER et al	06-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8-11 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Levinson.

There is disclosed in Levinson a coffee machine, comprising: a housing 3; a brewing chamber (internal chamber) disposed within the housing; a drawer 4 for supplying coffee pads (cans) 5 into the brewing chamber, the drawer being removably and detachably connected to the housing; guide continuations 21 forming part of the drawer, the continuations projecting in the direction of insertion and engage in guides 22 of the housing of the coffee machine for mounting the drawer in an open position, the ends of the continuations being beveled; a front plate 31 forming part of the drawer and abutting against the housing when the drawer is in a closed position; a retainer cover 26 formed partially of an elastic material (seal) 65, 65'; a coffee pad retainer 27 that forms a

lower region of the brewing chamber; and a plurality of projections 28, 28' on a bottom surface of the retainer cover.

Claims 8-11 and 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Pfeifer et al.

There is disclosed in Pfeifer a coffee machine, comprising: a housing and a brewing chamber; a drawer 16 insertable within the housing, the drawer having guide continuations 82, 84 which engage guides within the housing, wherein the continuations are slightly beveled on the ends.

In regards to the removably and detachably connected arrangement of the drawer, it is apparent that the drawer could be removed and returned. The presence of elements such as rails 82, 84 and guide wheels 86, 88 give weight to the draw being removable and connectable to the housing by some means.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeifer et al. in view of Basile et al.

Basile discloses a drawer for a coffee machine, the drawer having a base which includes a central opening surrounded by smaller openings of a screen member.

It would have been obvious to one skilled in the art to provide the drawer of Pfeifer with the screen taught in Basile, in order to ensure no coffee particles pass through the central opening.

(10) Response to Argument

Rejection of claims 8-11 and 24-28 in view of Levinson

Appellant argues that Levinson fails to disclose a drawer that supplies coffee pads into a brewing chamber, as required by the language of claim 8. Appellant goes on to state that recited brewing chamber of Levinson could not be such, since the brewing in Levinson takes place in the can 5.

Appellants claim 8 merely recites a "brewing chamber" and fails to disclose any structure in connection with the housing to further define a brewing chamber. In Levinson the can 5 represents the claimed "coffee pads" and the open area into which the drawer containing the can is inserted into the housing represent the chamber in which all of the brewing within the can 5 takes places. Thus, this open area is considered to meet the claimed structural requirements of a "brewing chamber". Appellants broad recitation of a "brewing chamber" is met by the prior art reference.

Appellant argues that the piercing elements (projections) 28, 28' of Levinson do not press can 5 against anything and therefor do not meet the claim language of claims 26 and 27.

While elements 28, and 28' do pierce the can 5, they act upon the can with a force provided by the upper platen 26. This force then allows can 5 to be pressed against the coffee pad retainer 27 during use. Thus, the piercing elements meet the functional claim language of "pressing a coffee pad against the coffee pad retainer".

Rejection of claims 8-11 and 14 in view of Pfeifer

Appellant argues that Pfeifer fails to disclose a drawer being "removably and detachably connected to the housing". Appellant goes on to state that the Examiner has

failed to give the phrases "removably connected" and "detachably connected" their plain meaning or broadest interpretation in light of the specification.

Appellants reason for having a drawer which is detachable and removable is cited in the specification and is understood by the Examiner. But, it was with the intention of giving such claim language as "removably connected" and "detachably connected" their broadest interpretation, that the Examiner has based the rejection involving the Pfeifer reference. Such broad recitations without any defining structural arrangements gives way to a reference which can perform such a function. In this case the Pfeifer reference discloses a drawer which could be removed and detached from the housing into which it slides. The method and means at which it is removed is not required to be disclosed in the reference since the claim language requires no specific structure, and references no means plus function language. Simply put, the Pfeifer reference discloses all of the claimed structural limitations.

Appellant argues that Pfeifer fails to disclose continuations that are at least slightly beveled with respect to the direction of insertion, as required in claim 10. And that the Examiner has failed to indicate what part of Pfeifer corresponds to the claimed ends of the continuations.

A view of figures 9-11 of Pfeifer discloses continuations 82, 84 having an end furthest from a front of the drawer which has a slight bevel at its bottom. The claimed structural limitations have been met by the prior art.

Appellant argues that the Examiner has failed to provide any support in the rejection as to what parts of Pfeifer are relied upon for the rejection of claim 14.

Again turning to figures 9-11 of Pfeifer there is disclosed corresponding ramp elements associated with the drawer and guide tracks of the drawer. In figure 11 the ramp associated with the drawer appears to be adjacent element 80, and the ramp associated with the guide rails is located just above the FIG. 11 title. The ramps would provide a telescopic movement of the coffee pad retainer as it is moved between an open and closed position.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Reginald L. Alexander

/Reginald L. Alexander/

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